IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

WRIT MISC APPLICATIO No. 78 of 2004

SURENDRA SINGH MEHTA
V/S
S.P.JAIN & ORS

Mr. BN KALLA, for the appellant / petitioner

Mr. BL BHATI,AGA, for the respondent

Date of Order : 2.5.2006

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the petitioner.

This petition has been filed under Article 215 of the Constitution, praying that the respondents be directed to appear in person, and suitable punishment may be awarded for not making the compliance of the lawful orders passed by this Court.

The order said to have been passed is produced as Annexure-1, being dt. 26.5.1995, in S.B. Civil Writ Petition No. 1614/95. A look at that order shows, that all that was ordered was, that the respondents were directed to pay to the petitioner “minimum pay in the lowest pay scale applicable to the post of regular LDC/Store Munshi from the date of filing of the petition”. The other direction given was to “consider regularisation of his services” in the light of directions made in order passed in Writ Petition

No. 3453/1994, decided on the same day. It was also directed, that the relief will be given only if the petitioner was in service on the date of filing of the petition. This order is said to have been upheld by the Division Bench, vide order dt. 22.7.1998, being Annexure-2, and also by Hon'ble the Supreme Court, vide order dt. 8.10.1999, being Annexure-3. After service of the notices the compliance report has been filed before this Court on 13.7.2005, submitting that the order dt. 21.4.2005 has been issued, making appointment of the petitioner as Store Munshi w.e.f. 16.4.1994, and declaring him semi permanent, w.e.f. 16.4.1996. Accordingly, the petitioner has joined as well, vide joining report dt. 23.4.2005, and it was prayed that the petition be dismissed. This order has been produced as Annexure R/1. To this, an additional affidavit has been filed by the petitioner, and this time the petitioner came with different colours, by contending, that the post of L.D.C. is lying vacant in certain divisions, and that, the arrears, which is to be given to the petitioner comes to Rs. 23,648/-. It was pleaded that he was getting Rs. 3795/- per month, whereas he is getting Rs. 3050/- as the basic pay, the other allowances have been stopped, and that, his services have not been counted from 1.4.1980. It is also contended, that he has not been given the annual increments even since 1994, nor has he been given selection scale on completion of nine years of service, and other financial benefits. To this a counter

was filed on 13.4.2006, contending inter alia, that in compliance of the directions of this Court, the petitioner has been appointed as Store Munshi against the vacant post of L.D.C., w.e.f. the date of filing of the writ petition, being 16.4.1994, and has been declared semi permanent after completion of two years of service. It was pleaded, that the petitioner was granted the benefit of pay scale of L.D.C. applicable on 16.4.1994, being 950-1680, which has been revised to the scale of 3050-4590, and has been granted the annual grade increments, and from 16.4.2005 he will get Rs. 3800/- per month, and after getting selection scale, he will be fixed in the pay scale of 4000-6000. Thus, it was pleaded, that on completion of nine years of service, the selection scale has also been sanctioned as 4000-6000, which has been produced as Annexure A/2. Then, the petitioner has filed further additional affidavit on 26.4.2006, contending inter alia, that the orders Annexure A/1 and A/2 dt. 22.3.2006, and 4.4.2006, do not make compliance of the order, as nine years is to be computed from 1994, and not from 1996. It was also contended, that the petitioner has been appointed on work charge basis only, and no effects for regularisation has been made regarding service of the petitioner as Store Munshi/LDC. Then, some dispute about the payable pay in the pay scale has been raised, and other allowance have also been claimed.

In my view, from a bare reading of Annexure 1, 2 and that of Hon'ble the Supreme Court Annexure-3, and from a collective reading of the orders produced by the respondents, including Annexure A-1 and A-2, so also the order dt. 21.4.2005, produced as Annexure R/1, sufficient compliance has been made. I need not go into the aspect, that if the matter were to be considered strictly on the parameters of the judgments Annexure-1 and Annexure-2, more particularly keeping in view the spirit of the latest Constitutional Bench judgment of Hon’ble the Supreme Court reported in JT 2006 (6) SC 420, it is clear, that the petitioner has rather been paid much more than what was contemplated by the orders Annexure-1 and Annexure-2.

The application thus has no force, and is dismissed.

(N P GUPTA),J.

/Sushil/